**COMPLETING FORM ETA 9141, APPLICATION FOR PREVAILING WAGE DETERMINATION**

*by Barbara L. Bower*

**NOTE: Always check the website for the most recent version of this form and current filing fees!**

Form ETA 9141, Application for Prevailing Wage Determination, is used by the U.S. Department of Labor (DOL) to determine the prevailing wage rate for Program Electronic Review Management (PERM) labor certification and for H-1B, H-1B1, H-2, and E-3 nonimmigrant visa purposes. The Immigration and Nationality Act (INA) requires that the hiring of a foreign worker in any of these situations must not adversely affect the wages and working conditions of comparably employed U.S. workers. The DOL’s regulations require that the wages offered to a foreign worker must meet or exceed the prevailing wage rate for the occupational classification in the area of employment.

The prevailing wage rate is defined as the average wage paid to similarly employed workers in a specific occupation in the area of intended employment.

The ETA 9141 form is filed online through the iCert portal: [http://icert.doleta.gov/](http://icert.doleta.gov/). After logging in, click on “Prevailing Wage” on the top toolbar.

A sample of the ETA 9141 form may be viewed outside the iCert portal at: [www.foreignlaborcert.doleta.gov/pdf/ETA_Form_9141.pdf](http://www.foreignlaborcert.doleta.gov/pdf/ETA_Form_9141.pdf).


Background information about prevailing wages is available at: [www.foreignlaborcert.doleta.gov/pwscreens.cfm](http://www.foreignlaborcert.doleta.gov/pwscreens.cfm).

Practitioners should regularly check the DOL FAQs. Note: To find the prevailing wage FAQs, scroll past all the PERM, H-1, H-2A and H-2B topics to the separate section on prevailing wages. Within that section, go down to “PERM Prevailing Wages.” If instead you go to the “Prevailing Wage” topic under the PERM Program section at the top of the FAQs, you will find only a very few basic questions.

**PART A – EMPLOYMENT-BASED VISA INFORMATION**

Insert the classification symbol for the type of visa supported by this application: “PERM” for permanent employment certification or the alphanumeric code for the appropriate nonimmigrant visa (H-1B, H-1B1 Chile, H-1B1 Singapore, H-2B, or E-3 Australian).

**PART B – REQUESTOR POINT-OF-CONTACT INFORMATION**

Insert the name and contact information of the person requesting the information. This can be the attorney who represents the employer or a contact person at the employer (for example, the human resources director). Use the business address and business telephone number.

*Articles do not necessarily reflect the views of the American Immigration Lawyers Association.*

*Barbara L. Bower* practices immigration law, with an emphasis in business immigration, in Pittsburgh. She has been listed in the *Best Lawyers in America* in immigration law for more than 10 years. Ms. Bower is a past chair of AILA’s Pittsburgh Chapter and has served on numerous AILA committees. She is the author of “L-1 Intracompany Transferee Visas,” 98-4 *Immigration Briefings* (Apr. 1998) and numerous AILA conference articles.
PART C – EMPLOYER INFORMATION

DOL may compare the information provided on this form to the information contained in its database and in commercial databases. Be sure that the information listed on the ETA 9141 is accurate, up-to-date, and consistent with information provided to the Internal Revenue Service (IRS).

Box 1 – Legal Business Name

Insert the employer’s full legal name exactly as it appears on documentation reported to the IRS. Include designations such as “Inc.” or “LLC” as appropriate.

Box 2 – Trade Name/Doing Business as (DBA), (If Applicable)

If the employer conducts business under another name, enter the full trade name or D/B/A name of the employer in Box 2.

Boxes 3-11 – Address and Telephone Number of the Employer

Enter the street address and telephone number of the employer’s principal place of business. This may be different from the “Place of Employment” described in Part D.c. below. For example, if the employer is headquartered in Pittsburgh, but the worksite is in Nashville, the Pittsburgh headquarters address and telephone number should be used here. The Nashville worksite address should be listed in Part D.c.

Box 12 – Federal Employer Identification Number (FEIN)

Enter the nine-digit Federal Employer Identification Number (FEIN) assigned to the employer by the IRS. Do not use a Social Security number. All employers, including private households, must obtain an FEIN from the IRS before completing this application. Background information about FEINs and FEIN application procedures is available at the IRS website: www.irs.gov, particularly at: www.irs.gov/businesses/small/article/0,,id=98350,00.html.

Box 13 – NAICS Code

Enter the four-six digit North American Industry Classification System (NAICS) code that best describes the employer’s business, not the offered job. The NAICS website provides a free code lookup service at: www.naics.com/search.htm. The list can also be accessed through: www.census.gov/eos/www/naics/.

PART D – WAGE PROCESSING INFORMATION

Shortly before this book was finalized, in June 2013, DOL released an updated version of the ETA Form 9141, which includes a new Section D (see the sample Form ETA 9141 that follows this article). This section asks whether the position is covered by ACWIA, a collective bargaining agreement, or the Davis-Bacon Act (DBA) or McNamara Service Contract Act (SCA). It also asks whether the employer is requesting that an alternate wage survey be used in issuing a prevailing wage. If an alternate wage survey is requested, the name of the survey and the survey date of publication must be included. For guidance on answering the new questions, see AILA’s Practice Tip, “Completing the New ETA 9141.”¹

PART E – JOB OFFER INFORMATION

Part a. Job Description

Box 1 – Job Title

Enter the title of the job opportunity. This should be the title that is customarily used by the employer. It may be different from the job title of the SOC (O*NET/OES) occupational category discussed below.

**Box 2 – Suggested SOC (O*NET/OES) code**

Enter the six- or eight-digit Standard Occupational Classification (SOC)/Occupational Network (O*NET) code for the occupation that most clearly describes the work to be performed. DOL uses the SOC as a framework for gathering information and categorizing occupations.

This code can be found using the DOL Foreign Labor Certification Data Center Online Wage Library. First, select the state and then the county/township from the drop-down menu. You can search for the appropriate occupational classification using either a keyword or phrase or through the drop-down menu of occupations.

The DOL staff who process ETA 9141s, have the discretion to select a different SOC (O*NET/OES) code if they believe a different code better fits the occupation and job duties for the position described. DOL’s position is that the job duties, not the job title, control which SOC (O*NET/OES) code will be assigned.

**Box 2a – Suggested SOC (O*NET/OES) Occupation Title**

Once the SOC (O*NET/OES) code has been selected as described in Box 2 above, the iCert auto-fill feature should automatically fill in Box 2a with the occupational title associated with that SOC (O*NET/OES) code.

**Box 3 – Job Title of Supervisor of the Workers**

Insert the job title of the person who supervises the beneficiary.

**Box 4 – Does this Position Supervise the Work of Other Employees?**

If the answer is “yes,” you must insert the number of employees supervised by the beneficiary in Box 4a. If the answer is “no,” insert “0” (zero) in 4a.

**Practice Pointer**

Supervisory duties may result in an increase in prevailing wage level.

**Box 5 – Job Duties**

Describe, in detail, the job duties to be performed by any worker filling the job opportunity. These duties should be consistent with the general nature of the duties of the suggested SOC (O*NET/OES) code and occupation title set forth in Part D, Box 2 above, but they should not be identical.

The job duties described in the Form ETA 9089, Part H.11 should mirror the job duties set forth in Form ETA 9141. They also must be consistent with the language used in PERM recruitment materials. Discrepancies may result in the denial of the ETA 9089 PERM application.

**Practice Pointer**

Box 5 can be used for additional notes or requests that do not fit into other boxes. For example, information about split shifts or requests for use of a non-OES wage source (see special note below).

**Boxes 6 and 6a – Travel Requirements**

Explain the travel requirements, if any. Use quantifying language and describe the geographic scope of travel: For example, a speech therapist who travels to various schools to see clients may be engaged in “regular travel throughout Cook County, IL schools to meet clients. No overnight travel required.” A consulting engineer may “travel to the United States or foreign project sites on as-needed basis approximately 30% of time. No fixed itinerary.”

**Practice Pointer**

These travel requirements must be spelled out in Form ETA 9089, Part H, Box 14 and in the PERM recruitment materials.
Part b. Minimum Job Requirements

Prevailing wage determinations are based on the initial requirements submitted in Form ETA 9141. However, alternative requirements must now be mentioned on the ETA 9141 as follows: The alternative requirements can be indicated in either the Special Requirements block (D.b.5) or the Job Duties (D.a.6). Note that the wage determination is issued based on the primary requirements.

The minimum job requirements on Form ETA 9089, Part H should mirror the requirements set forth in Form 9141. They also must be consistent with the language used in PERM recruitment materials.

Box 1 – Education

Identify the minimum U.S. diploma or degree required by the employer for this job opportunity. Only mark one box.

If the answer to 1 is “Other,” list the specific type of degree in 1a (ex: J.D., M.D., D.V.M.) . Otherwise, type in “N/A.”

In Box 1b, type in the major(s) and/or field(s) of study required by the employer. List multiple fields, if appropriate. For example, IT professionals may be required to have a degree in “computer science, electrical engineering, MIS or a related field.” If the answer to Box 1 is “None” or “High School/GED,” enter “N/A” in Box 1b.

Boxes 2 and 2a – Does the Employer Require a Second U.S. Diploma/Degree?”

If the answer is “no,” enter “N/A” in Box 2a. If the answer is “yes,” describe the type of second degree.

Practice Pointer

If the beneficiary has a foreign degree, be sure to have it evaluated in accord with the Electronic Database for Global Education (EDGE) evaluation standards used by the U.S. Citizenship and Immigration Services (USCIS). The USCIS regards many foreign Bachelor degrees, including many from India, as being the equivalent of only three years of study at an accredited U.S. institution of higher education. The U.S. equivalencies of “Diploma” degrees from German institutions of higher education vary, depending on the nature of the institution and the number of years of study.

Box 3 – Training Requirements

Training may include, but is not limited to, programs, coursework or training experience (other than employment) such as internships, apprenticeships and medical residencies. Be sure not to duplicate this requirement by also counting the training under education (Boxes 1 and 2) or experience (Box 4). For example, knowledge gained through academic coursework that is part of a degree/diploma listed in 1 or 2 above generally should be treated as “education,” not “training.”

If the answer is “yes,” enter the required minimum number of months (not years) of training in Box 3a. Describe the field(s)/name(s) of training in Box 3b.

Box 4 – Employment Experience Requirements

If the answer to Box 4 is “yes,” enter the required minimum number of months (not years) of experience in Box 4a. Describe the occupation in which experience is required. This may cover more than one field.

Box 5 – Special Requirements

This section covers job-related special skills and/or requirements that do not fit into the categories above – for example, licenses, certifications, foreign language skills, proficiency with particular software, the ability to operate special equipment, etc. The employer must be prepared to document business necessity for these requirements, especially if a foreign language requirement is imposed.

Practice Pointer

Including special requirements that are outside the customary scope of employment will likely trigger an audit during the PERM process. DOL may also decide to assign a higher prevailing wage rate level if it concludes that the number or type of special requirements is higher than usual. If experience in the job offered is
required for the position, then it is redundant to list skills included in the job offered as a “special requirement.” For example, for an IT position which requires proficiency in particular software programs, that proficiency does not need to be listed as a special requirement if it is included in the job description already, and doing so may increase the wage level assigned by one level for each software listed.

**Part c. Place of Employment Information**

The employer must define the area of intended employment with as much geographic specificity as possible. Any travel requirements must be noted. This information is used for purposes of reviewing and verifying regulatory compliance with advertising, recruitment requirements, and prevailing wage determinations. The worksite information listed on Form ETA 9141 must be consistent with the information listed in Form ETA 9089 and the PERM recruitment materials.

**Boxes 1–6 – Worksite Address**

Use the street address of the site where the work will be performed, not a post office box.

Be sure to list the county, not the country in Box 4. For example, the answer to Box 4 for a position in Chicago would be “Cook” (for Cook County), not USA.

In Box 6 the “postal code” is the zip code for worksites in the United States.

**Boxes 7 and 7a – Multiple Worksites**

The street address of the worksite(s) should be listed. If the exact address is unknown or if there are multiple worksites within the same region, it is permissible to list the Metropolitan Statistical Area (MSA) or the city/township/county and state where the work will be performed. The description of the job duties (Part D.a, Box 6 above) and the travel requirements (Part D.a, Box 7 above) should be consistent with the description of multiple worksites.

*Practice Pointer*

The DOL National Prevailing Wage Center (NPWC) must provide wages for each location listed in the ETA 9141 application, but it does not dictate how the employer should use the wage rate information to comply with applicable program regulations. The burden of compliance is on the employer.

*Practice Pointer*

If the foreign national will work at “various unanticipated locations,” as is often the case with IT consultants employed by consulting firms, all recruitment should be conducted based on the location of the corporate headquarters. The worksite on the ETA 9141 should be listed as the corporate headquarters address and “travel to various unanticipated locations” should be noted.²

**Special Notes Regarding Non-OES Wage Sources**

DOL typically uses OES wage data in its prevailing wage determinations. There are other potential wage sources, however:

- McNamara-O’Hara Service Contract Act (SCA)
- Davis Bacon Act (DBA)
- Higher Education American Competitiveness and Workforce Improvement Act (ACWIA) – This is typically used for institutions of higher education, related or affiliated nonprofit entities, nonprofit research organizations or government research agencies. An employer who wants to claim this category should include the following statement surrounded by asterisks in ETA 9141, Part D.a, Box 6 (Job Duties) ***This employer is an institution of higher education or a research entity under 20 CFR 656.40(e).***
- Collective Bargaining Agreement (CBA) – If the job opportunity is covered by a collective bargaining agreement, the employer must submit the following at the time it submits Form ETA 9141:

² See Field Memorandum No. 48-94, AILA InfoNet Doc. No. 94052390 (posted May. 23, 1994).
1. A copy of the relevant portion of the CBA;
2. A letter, on letterhead, from the employer, stating the relevant section of the CBA, the CBA job title, and the appropriate wage: and
3. A letter, on letterhead, from the collective bargaining unit’s (union) authorized representative, stating the relevant section of the CBA, the CBA job title, and the appropriate wage.

The supporting CBA documentation can now be uploaded when filing the form.

- Wage Source Other than OES – The employer may request the use of a specific source other than the OES. The DOL has the option to accept or reject this source. An employer who wants to request use of a specific alternative wage source must provide the source’s name, edition, revision, and publication date, set off by asterisks, in ETA 9141, Part D.a, Box 6. The employer will need to provide support documentation. Upload the alternative wage source documentation when filing the 9141.

- Employer-Provided/Published or Employer-Conducted/Commissioned Survey – The NPWC will consider wage information provided by the employer. It may choose to accept or reject this information. This request should be set off by asterisks in ETA 9141, Part D.a, Box 6. The employer must provide the information set forth in 20 Code of Federal Regulations (CFR) §656.40(g). Submit the supporting survey documentation to the NPWC by uploading it in the 9141 submission process.

PART E - PREVAILING WAGE DETERMINATION

Part F of the ETA 9141 form, the Prevailing Wage Determination (PWD), is reserved for official DOL—NPWC use. The information contained in this section must be entered in Part F of the ETA 9089 Application for Permanent Employment Certification. The employer must maintain a copy of the ETA 9141, complete with PWD information, in its ETA 9089 audit support file. The ETA 9141 must be presented to DOL upon request—for example, for PERM audit purposes.

The PWD’s validity dates are shown in Part F, Box 8 and E, Box 9. The PWD will be valid for a minimum of 90 days and up to one year. DOL typically releases updated wage data effective July 1st of each year. Consequently, a PWD issued on May 15th should be valid for 90 days. A PWD issued on November 15th is generally valid until June 30th of the following year.
Sample Form ETA 9141, Application for Prevailing Wage Determination

A. Employment-Based Visa Information

| 1. Indicate the type of visa classification supported by this application (Write classification symbol): * | PERM |

B. Requestor Point-of-Contact Information

<table>
<thead>
<tr>
<th>1. Contact's last (family) name *</th>
<th>2. First (given) name *</th>
<th>3. Middle name(s) *</th>
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<tbody>
<tr>
<td>Law</td>
<td>Josephine</td>
<td>Mary</td>
</tr>
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<tr>
<th>4. Contact's job title *</th>
<th>5. Address 1 *</th>
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<tbody>
<tr>
<td>Attorney</td>
<td>Law &amp; Associates, PC</td>
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<tr>
<th>6. Address 2</th>
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<tbody>
<tr>
<td>456 Maple Street, Ste 3</td>
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<td>Anywhere</td>
<td>IL</td>
<td>60600</td>
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<tr>
<th>10. Country *</th>
<th>11. Province (if applicable)</th>
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<tbody>
<tr>
<td>USA</td>
<td></td>
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<tr>
<th>12. Telephone number *</th>
<th>13. Extension</th>
<th>14. Fax Number</th>
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<tbody>
<tr>
<td>800-123-4567</td>
<td>x2</td>
<td>800-123-7654</td>
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<tr>
<th>15. E-Mail Address</th>
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<tbody>
<tr>
<td><a href="mailto:jmlaw@lawassociates.com">jmlaw@lawassociates.com</a></td>
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C. Employer Information

<table>
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<tr>
<th>1. Legal business name *</th>
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<tr>
<td>Smith and Jones Logistics</td>
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<th>2. Trade name/Doing Business As (DBA), if applicable</th>
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<tr>
<th>3. Address 1 *</th>
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<tr>
<td>123 Main Street, Ste 400</td>
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<td>Chicago</td>
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<tr>
<th>8. Country *</th>
<th>9. Province (if applicable)</th>
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<tr>
<td>USA</td>
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<tr>
<th>10. Telephone number *</th>
<th>11. Extension</th>
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<tbody>
<tr>
<td>888-987-6543</td>
<td></td>
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<tr>
<th>12. Federal Employer Identification Number (FEIN from IRS) *</th>
<th>13. NAICS code (must be at least 4-digits) *</th>
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<tr>
<td>00-000000000</td>
<td>541614</td>
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D. Wage Processing Information

<table>
<thead>
<tr>
<th>1. Is the employer covered by ACWIA? *</th>
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<tr>
<td>q Yes □ No</td>
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<tr>
<th>2. Is the position covered by a Collective Bargaining Agreement (CBA)? *</th>
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<td>q Yes □ No</td>
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<tr>
<th>3. Is the employer requesting consideration of Davis-Bacon (DBA) or McNamara Service Contract (SCA) Acts? *</th>
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<tr>
<td>q Yes □ No □ DBA □ SCA</td>
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D. Wage Processing Information (cont.)

4. Is the employer requesting consideration of a survey in determining the prevailing wage? *
   □ Yes □ No

4a. Survey Name: $

4b. Survey date of publication: $

E. Job Offer Information
   a. Job Description:

1. Job Title * Logistician

2. Suggested SOC (ONET/OES) code * 13-1081
   2a. Suggested SOC (ONET/OES) occupation title *
       Logisticians

3. Job Title of Supervisor for this Position (if applicable) $
   Operations Supervisor

4. Does this position supervise the work of other employees? *
   □ Yes □ No
   4a. If "Yes", number of employees worker $ will supervise: 

4b. If "Yes", please indicate the level of the employees to be supervised: □ Subordinate □ Peer

5. Job duties – Please provide a description of the duties to be performed with as much specificity as possible, including details regarding the areas/fields and/or products/industries involved. A description of the job duties to be performed MUST begin in this space. *

   Analyze and coordinate logistical functions including acquisition, distribution, internal allocation, delivery, and final disposal of resources. Coordinate delivery of materials with suppliers and of final products with customers, using truck, rail, air, and sea transport. Develop and implement technical project management tools such as plans, schedule, and responsibility and compliance matrices.

6. Will travel be required in order to perform the job duties? *
   □ Yes □ No

   6a. If "Yes", please provide details of the travel required, such as the area(s), frequency and nature of the travel, $
   Approx. 20% of time to suppliers and customers throughout US. No fixed itinerary.
Application for Prevailing Wage Determination
ETA Form 9141
U.S. Department of Labor

E. Job Offer Information (cont.)

b. Minimum Job Requirements:

1. Education: minimum U.S. diploma/degree required *
   □ None □ High School/GED □ Associate’s □ Bachelor’s □ Master’s □ Doctorate (PhD) □ Other degree (JD, MD, etc.)
   1a. If “Other degree” in question 1, specify the diploma/degree required §

2. Does the employer require a second U.S. diploma/degree? *
   □ Yes □ No
   2a. If “Yes” in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required §

N/A

3. Is training for the job opportunity required? *
   □ Yes □ No
   3a. If “Yes” in question 3, specify the number of months of training required §
   3b. Indicate the field(s)/name(s) of training required §

N/A

4. Is employment experience required? *
   □ Yes □ No
   4a. If “Yes” in question 4, specify the number of months of experience required §
   4b. Indicate the occupation required §

Logistician, Supply Chain Analyst or related field

5. Special Requirements - List specific skills, licenses/certificates/certifications, and requirements of the job opportunity. *
   Must be proficient with Logitrak software. Must have at least 1 year experience in ocean freight management.

c. Place of Employment Information:

1. Worksite address 1 *
   123 Main Street, Ste 400

2. Address 2

3. City *
   Chicago

4. County *
   Cook

5. State/District/Territory *

6. Postal code *
   60601

7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than the address listed above? *
   □ Yes □ No

7a. If “Yes”, identify the geographic place(s) of employment indicating each metropolitan statistical area (MSA) or the independent city(ies)/township(s)/county(ies) (borough(s)/parish(es)) and the corresponding state(s) where work will be performed. If necessary, submit a second completed ETA Form 9141 with a listing of the additional anticipated worksites. Please note that wages cannot be provided for unspecified/unanticipated locations.§
**F. Prevailing Wage Determination**

<table>
<thead>
<tr>
<th>FOR OFFICIAL GOVERNMENT USE ONLY</th>
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<tbody>
<tr>
<td>1. PW tracking number</td>
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<tr>
<td>3. SOC (ONET/OES) code</td>
</tr>
<tr>
<td>4. Prevailing wage $</td>
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<tr>
<td>5. Per. (Choose only one)</td>
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<tr>
<td>5a. If Piece Rate is indicated in question 2, specify the wage offer requirements. *</td>
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<tr>
<td>6. Prevailing wage source (Choose only one)</td>
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<tr>
<td>□ OES (All Industries) □ OES (ACWIA – Higher Education) □ CBA □ DBA □ SCA □ Other/Alternate Survey</td>
</tr>
<tr>
<td>6a. If &quot;Other/Alternate Survey&quot; in question 7, specify</td>
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<tr>
<td>7. Additional Notes Regarding Wage Determination</td>
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<tr>
<td>8. Determination date</td>
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</tbody>
</table>

**F. OMB Paperwork Reduction Act (1205-0508)**

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain the benefits of temporary employment certification (Immigration and Nationality Act, Section 101). Public reporting burden for this collection of information is estimated to average 55 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW. * Washington, DC * 20210. **Do NOT send the completed application to this address.**